

Hon'ble Servesh Kumar Gupta, J.

Mr. Siddhartha Singh, Advocate for the appellants.

Mr. Alok Mehra, Advocate for the respondents.

Respondent no.1-Gopal Ram, in fact, died during pendency of first appeal but somehow, the fact of his death could not come to the notice of plaintiff/appellants. So, his heirs were not impleaded. Gopal Ram is the brother of respondent nos.2, 3 and 4. After the death of respondent no.4 Tika Ram, his heirs were substituted.

I think that for effective adjudication, the heirs of Gopal Ram should also be substituted.

The second appeal is always continuation of original suit as well as of the first appeal.

Thus, the substitution application (CLMA 13071/14) is allowed. Let the substitution be made and the heirs of Gopal Ram be impleaded within three days. Thereafter, the service shall be effected upon the newly added heirs wherefor the steps shall be taken within next one week.

Objection filed on behalf of respondent no.1 against the substitution application is rejected.

At the same time, delay condonation application in setting aside abatement (CLMA 13069/14) as well as the setting aside application (CLMA 13070/14) are, accordingly, set aside.

List after service report.

(Servesh Kumar Gupta, J.)

17.03.2015